



**Ex Parte Filing**

**November 7, 2001**

***Via Electronic Filing and  
Overnight Delivery***

Hon. Michael Powell  
Ms. Dorothy Attwood  
Federal Communications Commission  
Portals II  
Room TW-A325  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

Re: Implementation of the Pay Telephone Reclassification and  
Compensation Provisions of the Telecommunications Act of 1996,  
CC Docket No. 96-128, File No. NSD-L-99-34

Dear Mr. Powell and Ms. Attwood,

Telstar International, Inc. is writing in regard to the IXC actions implementing the Commission's *Second Order on Reconsideration* ("Second Order") in the above-captioned proceeding. The Commission has set a November 23, 2001 deadline for IXCs to implement the tracking mechanisms and "first switch pays" requirements of the *Second Order*. IXCs have filed several hotly contested petitions for reconsideration of the *Second Order* which are pending and are not likely to be acted upon by this Commission by the November 23<sup>rd</sup> implementation deadline. Those petitions if granted, would allow IXCs to unlawfully charge switch-based resellers PSP compensation for *each call attempt* made on a reseller's network regardless of whether those calls complete to the end user, while IXCs would continue to pay PSP compensation only for completed calls. This conduct would flatly violate Sections 201, 202 and 276 of the 1996 Act.

Although the Commission has not yet acted on the IXC petitions, ***all*** of the major IXCs, including Sprint, WorldCom, AT&T, Global Crossing, and Qwest have informed their reseller customers that they will begin charging resellers for PSP compensation for incomplete calls on or about November 23<sup>rd</sup>. This unified IXC action will cause an enormous hardship to Telstar and to other resellers. Resellers will be forced to pay PSP compensation for all call attempts while IXCs who compete with resellers in the debit card market will only pay for completed calls. Resellers will have to pass these additional costs on to their customers while IXCs --who will not have these additional costs-- will be able to unfairly undercut reseller prices.

**TELSTAR INTERNATIONAL, INC.** One North Broadway, Suite 128, White Plains, NY 10601  
TEL: (914) 428-5555 FAX: (914) 428-5640



The solidarity among IXC's in this approach has made it impossible for resellers like Telstar to find competitive alternatives for the IXC 800 transport services that are necessary for switch based resellers to provide services. As a result of the IXC action, Telstar is facing a crushing and unjustified potential business loss come November 23<sup>rd</sup> --losses caused not from the norms of business and a competitive marketplace, nor from PSP compensation for completed calls as mandated by Section 276 and which Telstar pays today -- but instead costs imposed on Telstar by this unified and anti-competitive approach by the major IXC's in the marketplace.

Given the urgency of this situation, Telstar asks the Commission to defer the implementation date of the "first switch pays" rule articulated in the *Second Order* until the Commission rules on the Petitions for Reconsideration/Clarification in the proceeding. If not, switch based resellers like Telstar will immediately begin to face truly insurmountable costs that threaten our continuing viability. Indeed, Global Crossing proposed a deferral of the implementation date to which AT&T, WorldCom, Sprint, Telstar, IDT and IPCA agreed. A postponement is the best way to allow for the reasoned consideration of the important legal and public policy issues raised by the requests for reconsideration in the proceeding. Thank you for your consideration of this request.

Sincerely,

s/s  
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Hope Halpern  
Director of Regulatory Affairs  
Telstar International, Inc.  
1 North Broadway  
White Plains, NY 10601  
914-428-5555 ex. 219  
[hope@telstar-usa.com](mailto:hope@telstar-usa.com)

cc: Hon. Michael Copps  
Hon. Kathleen Abernathy  
Hon. Kevin Martin  
Kyle Dixon, Esq.  
Jordan Ginsberg, Esq.  
Jeffrey Carlisle, Sr. Deputy Chief, Common Carrier Bureau  
Diane Griffin-Harmon, Assistant Bureau Chief, CCB  
Tania Cho, Network Services Division, CCB

